

§ 25.13

- (b) Such notice shall include—
- (1) The tentative time and place, and the nature of the hearing;
 - (2) The legal authority and jurisdiction under which the hearing is to be held;
 - (3) The matters of fact and law to be asserted;
 - (4) A description of the procedures for the conduct of the hearing;
 - (5) The name, address, and telephone number of the representative of the Government and of the respondent, if any; and
 - (6) Such other matters as the ALJ deems appropriate.

§ 25.13 Parties to the hearing.

- (a) The parties to the hearing shall be the respondent and the authority.
- (b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 25.14 Separation of functions.

- (a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—
 - (1) Participate in the hearing as the ALJ;
 - (2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or
 - (3) Make the collection of penalties and assessments under 31 U.S.C. 3806.
- (b) The ALJ shall not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.
- (c) The reviewing official shall, after consulting with the Inspector General, designate the representative for the Government, who shall be an attorney with either the Office of General Counsel or the Office of the Inspector General. The reviewing official's decision is final.

§ 25.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any mat-

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ter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 25.16 Disqualification of reviewing official or ALJ.

- (a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.
- (b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.
- (c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.
- (d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.
- (e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.
- (f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.
- (2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.
- (3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 25.17 Rights of parties.

- Except as otherwise limited by this part, all parties may—
- (a) Be accompanied, represented, and advised by a representative;
 - (b) Participate in any conference held by the ALJ;